

LOUISIANA PUBLIC SERVICE COMMISSION
MINUTES FROM JULY 15, 2009
OPEN SESSION

MINUTES OF JULY 15, 2009 OPEN SESSION OF THE LOUISIANA PUBLIC SERVICE COMMISSION HELD IN VIDALIA, LOUISIANA. PRESENT WERE CHAIRMAN LAMBERT BOISSIERE, VICE CHAIR JIMMY FIELD, COMMISSIONERS FOSTER CAMPBELL, ERIC SKRMETTA AND CLYDE HOLLOWAY. ALSO PRESENT WAS EVE KAHAO GONZALEZ.

Open Session of July 15, 2009, convening at 9:35 A.M. and adjourning at 2:00 P.M., Vidalia Convention and Conference Complex, 112 Front Street, Vidalia, Louisiana, with the above-named members of the Commission and Secretary Eve Kahao Gonzalez.

Ex. 1 Announcements

Commissioner Campbell recognized several local politicians and dignitaries who were in attendance.

Staff Attorney Amanda Smith announced that there was a new attorney in the Legal Division, Stephen Kabel.

Commissioner Skrmetta reminded everyone that the September 16, 2009 B&E will be held at the Jefferson Parish Council Chambers in Metairie, Louisiana.

Commissioner Holloway introduced two new employees in his district office, Karen Haymon and Cindy Carter.

Ex. 2 **T-30881** - Louisiana Public Service Commission vs My Vac, LLC (Jennings, Louisiana). In re: Alleged violation of Louisiana Revised Statutes Title 45, 163.1 through 194, as amended, by operating Intrastate beyond the scope of their authority, while operating under LPSC 7013-A, on one count that occurred on or about May 22, 2008, by operating more than two (2) dump trucks / end dump trucks.

On motion of Commissioner Field, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to accept the ALJ Recommendation and 1) Find My Vac, LLC guilty on one count of violating La. R.S. 45:164 by operating intrastate beyond the scope of its authority and 2) Impose a fine of \$500 upon My Vac, LLC for its violation of La. R.S. 45:164, which fine must be paid to the Commission by My Vac, LLC within fifteen (15) days of the issuance of the Order.

Ex. 3 **T-30969** - Louisiana Public Service Commission vs Duncan Services (Longview, Texas). In re: Alleged violation of Louisiana Revised Statutes Title 45:161 through 180.1 as amended, by operating Intrastate without L.P.S.C. authority on four counts; allegedly occurring on or about July 1, 2008 through July 7, 2008.

In re: Stipulated Agreement

On motion of Commissioner Field, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to accept the Staff Recommendation and adopt the agreement between Staff and the Carrier, wherein the Carrier agreed to plead guilty, agreed to pay a fine in the amount of \$500.00 per count, for a total of \$2,000.00 on the four counts, with \$250.00 of the fine suspended per count, for a total suspended amount of \$1,000.00, conditioned upon the Carrier's commission of no further violations within twelve (12) months of the issuance of the Order in this proceeding, the unsuspended portion of the fine, \$1,000.00, together with a \$25.00 citation fee, for a total of \$1,025.00, to be paid within fifteen (15) days of issuance of the Commission's Order in this proceeding.

Ex. 4 **T-30943** - Louisiana Public Service Commission vs Charles Jacob dba Jake's (Boutte, Louisiana). In re: Alleged violation of Louisiana Revised Statutes Title 45:161 through 180.1 as amended, and General Order dated October 2, 2008 while operating under LPSC authority 7386, for exceeding state prescribed rates allegedly having occurred on or about February 25, 2009.

In re: Stipulated Agreement

On motion of Commissioner Skrmetta, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to accept the Staff Recommendation and adopt the agreement between Staff and the Carrier, wherein the Carrier agreed to plead guilty, agreed to refund \$187.89 (by certified funds) to Progressive Security Insurance Company (attention: Ms. Angela Bryant), 2439 Manhattan Boulevard, Harvey, Louisiana 70058, within fifteen (15) days of issuance of the Commission's Order, to send a copy of the certified funds document to the Commission's Transportation Division as proof of such payment and to pay a \$100 fine, together with a \$25 citation fee, for a total of \$125, within fifteen (15) days of issuance of the Commission's Order.

Ex. 5 **U-30830** - Pierre Part Natural Gas Co., Inc. (Assumption Parish, LA), ex parte. In re: Application for adjustment in gas service rates.

In re: Discussion and Possible Vote on Uncontested Stipulated Agreement.

On motion of Commissioner Boissiere, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to accept the Staff Recommendation and adopt the uncontested stipulated agreement as filed into the record and agreed upon by the parties and that Pierre Part be able to increase its customer charge by \$6.34/month to achieve an annual revenue requirement increase of \$97,089.

Ex. 6 **U-30077** – Louisiana Public Service Commission, ex parte. In re: Investigative audit into the affiliate, financial, management, and other regulatory practices of the Louisiana Land & Water Company, Inc. (LLWC) (West Monroe, Louisiana), a jurisdictional water and wastewater utility operating in the Parishes of Bienville, Jackson, Madison, Morehouse, Ouachita, Richland and Winn.

In re: Update from Staff on investigative audit.

At the request of Commissioner Field.

Staff Attorney Brandon Frey gave an update on the on-going investigative audit. Cheryl Silvan, Linda Logan and Melissa Miller, customers of Louisiana Land & Water Company, commented on the poor service they have received from LLWC and also the poor quality of water. Commissioner Field directed Staff to amend the rules to require an audit within six months of a rate increase for water to ensure the money is being properly utilized.

Ex. 7 **U-30773** - Diversion Water Co, LLC, ex parte, In re: Request for increase in water rates for its customers in Livingston, Ascension and St. Helena Parishes.

In re: Stipulated Agreement

Last month's Ex. 2

Commissioner Skrmetta directed Staff to provide further explanation for the recommended rates prior to a vote at the September B&E.

Ex. 8 Discussion and possible vote on rule regarding swearing in of witnesses at a B&E.

Commissioner Campbell made a motion to require all witnesses appearing at a B&E to be sworn in using the same language used at the Louisiana Legislature. Commissioner Field seconded this motion with the caveat that the word "committee" be changed to "Commission."

Commissioner Skrmetta offered a substitute motion in which the swearing in rules would not evoke the Rules of Practice and Procedure and would be used on a case by case basis. Commissioner Campbell objected to this motion. This motion died for lack of a second.

On motion of Commissioner Campbell, seconded by Commissioner Field, with Commissioner Boissiere concurring and Commissioners Skrmetta and Holloway objecting, the Commission

voted to adopt a rule requiring witnesses appearing before the Commission to be sworn in using the language used by the Legislature, with the word “committee” changed to the word “Commission.”

Ex. 9 Staff Report on “Do Not Call” Program.

Staff Attorney Melanie Verzwylt gave a brief report on the “Do Not Call” Program. Ms. Verzwylt stated that Senate Bill 29 was passed during the Session and that she has been meeting with the Attorney General’s office in connection with the fraudulent calls being received.

Ms. Verzwylt also reported on the status of the exemption of debt collectors from the “Do Not Call” registry. Commissioner Skrmetta directed Staff to review the possibility of incorporating language from the Fair Debt Collection Practices Act into the “Do Not Call” regulations.

Ex. 10 Discussion and vote on applying for Federal Stimulus funding to hire staff for energy projects.

At the request of Commissioner Campbell.

On motion of Commissioner Skrmetta, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to direct Staff to fill out any applications necessary regarding the Federal Stimulus funding.

Ex. 11 Possible Executive Session pursuant to La. R.S. 42:6 and 42:6.1 to discuss Executive Secretary position.

On motion of Commissioner Field, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to go into Executive Session.

On motion of Commissioner Skrmetta, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to come out of Executive Session.

Ex. 12 Discussion and possible vote on Executive Secretary position.

PASSED

Ex. 13 1) Reports
2) Resolutions
3) Discussions

On motion of Commissioner Skrmetta, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to adopt the resolution regarding Northeast Telephone Company as read into the record.

Ex. 14 **U-31066** - Dixie Electric Membership Corporation, ex parte. In re: Request for approval to implement a Storm Recovery Rate Rider.

In re: Discussion and possible vote to hire outside consultant.

At the request of Commissioner Field.

On motion of Commissioner Field, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to retain the consulting firm of J. Kennedy & Associates in this proceeding for a budget of \$43,900, consisting of \$42,500 in consulting services and \$1,400 in expenses.

Commissioner Field directed Staff and Kennedy & Associates to attempt to get this phase of the proceeding done in time for the September B&E.

Ex. 15 Possible Executive Session pursuant to La. R.S. 42:6 to discuss the budget.

At the request of Commissioner Field.

On motion of Commissioner Skrmetta, seconded by Commissioner Field, and unanimously adopted, the Commission voted to go into Executive Session.

On motion of Commissioner Skrmetta, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to come out of Executive Session.

Ex. 16 **U-30914** - Valley Electric Membership Corporation, ex parte. In re: Application for Certificate of Public Convenience and Necessity to Enter Into a Power Supply and Service Agreement with Cleco Power, LLC, ii.) Authorization for Valley Electric Membership Corporation to Flow-Through, in its Jurisdictional Rates, Charges that Valley Electric Pays Under the PSSA with Cleco Power, LLC and, iii.) Expedited Treatment.

At the request of Commissioner Campbell.

On motion of Commissioner Campbell, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to accept the Staff Recommendation and adopt the uncontested stipulated settlement agreement as filed into the record and approve the certification of the Cleco contract and authorize Valley to flow the prudently incurred costs associated with this contract through its Power Cost Adjustment.

Ex. 17 FERC Interruptible Orders: Docket U-20925 (RRF 2004): Consideration of tentative approval of settlement proposal, subject to confirmation after formal settlement procedures have been conducted.

At the request of Commissioner Field.

On motion of Commissioner Field, seconded by Commissioner Skrmetta, with Commissioners Campbell and Holloway concurring and Commissioner Boissiere temporarily absent, the Commission voted to grant preliminary approval of settlement proposal.

Ex. 18 Directive to Staff to open a rulemaking to establish procedures for making determinations at the Staff Level (minimum requirements and/or guidelines) of whether a transport by waste haulers is 'incidental to the primary service' and thus not regulated by the LPSC.

At the request of Commissioner Field.

Commissioner Field directed Staff to open a rulemaking to establish procedures for making determinations at the Staff Level (minimum requirements and/or guidelines) of whether a transport by waste haulers is 'incidental to the primary service' and thus not regulated by the LPSC.

Commissioner Skrmetta asked Joe Ortego to meet with him in the next few weeks to discuss reducing the number of unlicensed haulers in Louisiana.

Ex. 19 **U-28916 (TY 2007 FRP)** - Entergy Gulf States, LLC, ex parte. In re: Formula Rate Plan Evaluation Report for the test year ending December 31, 2007.

In re: Expansion in Scope of Representation for Henderson Ridge Consulting and Approval of Budget.

At the request of Commissioner Holloway.

On motion of Commissioner Skrmetta, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to accept the Staff Recommendation and authorized the expanded scope of work on this docket to include the FRP renewals discussions for an increased budget of \$44,250 in professional services and travel expenses of \$3,000.

Ex. 20 **S-30985** - Claiborne Electric Cooperative, Inc, ex parte. In re: Request for a letter of non-opposition to incurring indebtedness.

At the request of Commissioner Campbell.

On motion of Commissioner Campbell, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to accept the Staff Recommendation and issue a letter of non-opposition pursuant to the conditions read into the record.

Ex. 21 **U-28916 (TY 2007) FRP-** Entergy Gulf States, L.L.C., ex parte. In re: Formula Rate Plan Evaluation Report for the test year ending December 31, 2007.
U-20925 - Entergy Louisiana, LLC, ex parte. In re: 2006 & 2007 Test Year Formula Rate Plan.

In re: Interim treatment of EGSL and ELL Capacity Cost.

At the request of Commissioner Holloway.

On motion of Commissioner Field, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the ordering language as read into the record.

Ex. 22 Request for Staff assistance on broadband research.

At the request of Commissioner Campbell.

Commissioner Campbell directed Staff to look into what kind of federal stimulus programs are available and how much money will be available and try to get some for Louisiana. Staff Attorney Brandon Frey stated that this will be talked about at the NARUC meetings next week and he would be able to gather more information at that time.

Ex. 23 Report from ATT regarding non-satisfactory service since merger with BellSouth.

At the request of Commissioner Campbell.

Debbie Canale, ATT, stated that she was looking into the Commissioners' concerns.

Ex. 24 **R-30712 & R-30715** – In re: FRSA (R-30715) LRA vs. LPSC -19th JDC Suit No. 573637 & UP V LPSC – 19th JDC Suit No. 5735638 (consolidated) Crossings (R-30712) LRA vs. LPSC JSDC Suit No. 5789801, UP vs. LPSC (no suit number, consolidation with above is pending. UP vs. LPSC – US MDLa Civil Action NO. 09-396-JVP-SCR

At the request of Commissioner Campbell.

Commissioner Campbell directed Secretary Gonzalez to have Carmack Blackmon at September's B&E to discuss the pending litigation against the LPSC.

MEETING ADJOURNED

The next Business and Executive Session will be held September 16, 2009 at 9:00 a.m. in Metairie, Louisiana.